REMARKS

I. General

Claims 1-28 and 30-36 were pending in the present application. The present Office Action (mailed February 10, 2009) raises the following issues:

- Claims 1-4, 6-10, 13-15, 22-28, 30, 31, 33, and 34 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,941,271 to Soong (hereinafter "*Soong*"); and

- Claims 5, 11, 12, 16-21, 32, 35, and 36 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Soong* in view of U.S. Patent Application Publication No. 20040068650 to Resnitzky (hereinafter "*Resnitzky*").

Applicant respectfully traverses the outstanding rejections raised in the current Office Action, and requests reconsideration and withdrawal thereof in light of the amendments and remarks presented herein.

II. Amendments

Claims 1, 3, 7, 16, 18, 22, 25, 30, and 34 are amended, claim 23 is canceled without prejudice, and new claims 37-44 are added herein.

Claim 1 is amended to specify that the patient performs the recited "modifying the level of access of the first-level access key". No new matter is introduced by this amendment as support can be found at least at paragraphs 0026-0027, 0029-0030, and 0040-0041 of the specification.

Claims 3, 7, 25, and 34 are each amended to spell out "MSP" as "medical service provider" for clarity. The amendment is not intended to alter the scope of claims 3, 7, 25 and 34 in any way, but is instead intended as merely a cosmetic change.

Claim 16 is amended to include recitation of a key organization system and to specify that the key organization system performs various ones of the recited operations. No new

matter is introduced by this amendment as support can be found at least at paragraphs 0017-0047 of the specification.

Claim 18 is amended to recite "first" medical service provider for consistency with the amendments to claim 16 from which claim 18 depends indirectly. Claim 18 is further amended to spell out "MSP" as "medical service provider" for clarity, which is not intended to alter the scope of claim 18 in any way.

Claim 22 is amended to recite that the server system is further configured to store the second-level access key in the data store, as previously recited by dependent claim 23 which depended from claim 22. Thus, claim 23 is canceled without prejudice. Further, claim 22 is amended to recite that the server system is further configured to, "responsive to receipt of a request by the medical service provider to access the set of medical records of the patient," the server system uses the second-level access key "to grant said medical service provider the modified level of access." No new matter is introduced by this amendment as support can be found at least at 0017-0047 of the specification.

Claim 30 is amended herein to recite further operations of the recited server's processor that are consistent with operations described in the present application as being performed by the key organization system, *see* paragraphs 0017-0047 of the specification. Thus, no new matter is introduced by these amendments.

New claims 37-44 are added herein. No new matter is introduced by these newly added claims as support for their limitations can be found throughout the specification as originally filed.

III. Record of Examiner Interview

On March 18, 2009, a telephone discussion was held between the Examiner, Eleni Shiferaw, and Applicant's representative, Jody Bishop (USPTO Registration No.: 44,034). Applicant would like to express appreciation to the Examiner for her time and consideration in discussing this application. Applicant respectfully submits this summary of the substance of the discussion in accordance with M.P.E.P. §713.04.

Applicant hereby adopts the Examiner's interview summary mailed March 23, 2009, with the clarification that Applicant did not agree to amend all claims to recite both the "intermediary key server" (or "key organization system") and that the patient is the one modifying the level of access of the first-level access key. Rather, Applicant discussed amending claim 1 to recite that the patient is performing the recited "modifying the level of access of the first-level access key", and Applicant discussed amending claim 16 to recite the key organization system. Applicant presents amendments herein that are consistent with that discussion.

The Examiner agreed to reconsider the application and the rejections in view of the amendments and arguments presented herein.

IV. Rejections Under 35 U.S.C. §102 over *Soong*

Claims 1-4, 6-10, 13-15, 22-28, 30, 31, 33, and 34 are rejected under 35 U.S.C. §102(e) as being anticipated by *Soong*. Applicant respectfully traverses these rejections for the reasons below.

To anticipate a claim under 35 U.S.C. § 102, a single reference must teach each and every element of the claim. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). In fact, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989). Furthermore, for a reference to be anticipatory, "[its] elements must be arranged as required by the claim." *In re Bond*, 910 F.2d 831 (Fed. Cir. 1990), *cited in* M.P.E.P. § 2131. As discussed below, *Soong* fails to teach all limitations of claims 1-4, 6-10, 13-15, 22-28, 30, 31, 33, and 34, and therefore fails to anticipate the claims under 35 U.S.C. §102.

Independent Claim 1

Claim 1 recites, in part, "retrieving the first-level access key; and <u>generating a second-level access key by ... modifying the level of access of the first-level access key</u>" (emphasis added). *Soong* fails to disclose at least this element of claim 1, as discussed below.

Soong is directly generally to "manipulation and handling of health care records to enhance patient care". Col. 1, lines 8-10. While *Soong* mentions that access rules may be used for controlling access to the health care records (*see e.g.*, col. 2, lines 50-58 and col. 11, line 6 – col. 12, line 34), *Soong* provides no teaching regarding modifying existing access rules. That is, *Soong* provides no teaching of generating a second-level access key by "modifying the level of access of the first-level access key", as recited by claim 1. Instead, *Soong* is primarily concerned with modification of existing health care records (*see e.g.*, col. 4, lines 60-67, col. 7, lines 7-20, col. 8, lines 31-37, and col. 9, lines 1-21), rather than modification of any access keys that control access to the health care records.

The current Office Action (of February 10, 2009) maintains on page 9 thereof that *Soong* teaches the above limitation, citing to col. 6, lines 14-25 and lines 32-44 and 56, as well as to col. 11, lines 6-49 of *Soong*. From a review of the cited portions of *Soong*, those portions disclose receiving a login ID and comparing the received login ID against an authorization database to determine the portion(s), if any, of a health record that the person entering the login ID is entitled to access. The cited portions of *Soong* do not, in any way, disclose generating a second-level access key by modifying the level of access of the first-level access key. For instance, the cited portions of *Soong* do not disclose modifying the level of access associated with a first login ID in order to generate a second login ID having a second level of access.

The current Office Action appears to contend that the receipt of the login ID at the site computer 110, as disclosed at col. 6, lines 14-25 of *Soong*, constitutes a first-level access key (*see* page 9 of the Office Action). The Office Action further contends that the site computer checking the received login ID against the database 112 to determine the access rights associated with such login ID somehow constitutes the recited "second-level access key" (*see* page 9 of the Office Action). Applicant respectfully disagrees. The login ID received by the site computer 110 in *Soong* is merely compared against database 112 to determine the access

rights that are associated with the login ID. *Soong* does not teach or suggest that the level of access of the login ID (i.e., what the Office Action contends constitutes the recited first-level access key) is modified to generate a second-level access key, as recited by claim 1.

Further, claim 1 is amended herein to recite "generating a second-level access key by the patient modifying the level of access of the first-level access key" (emphasis added). Thus, claim 1 specifies that the patient modifies the level of access of the first-level access key, thereby generating the second-level access key. As discussed in the Examiner Interview of March 18, 2009, *Soong* fails to teach this further limitation. Again, as discussed above, *Soong* does not appear to disclose any generating of a second-level access key by modifying the level of access of a first-level access key, and particularly not by a "patient" modifying the level of access of the first-level access key as amended claim 1 recites.

Therefore, *Soong* fails to teach all elements of claim 1, and thus fails to anticipate the claim under 35 U.S.C. §102. Accordingly, the rejection of claim 1 should be withdrawn.

Independent Claim 22

Claim 22 recites, in part, "wherein the server system is configured to: ... retrieve the first-level access key; and generate a second-level access key by modifying the level of access of the first-level access key" (emphasis added). *Soong* fails to disclose at least this element of claim 22 for reasons similar to those discussed above with claim 1.

Further, as amended herein, claim 22 recites "wherein said server system is further configured to, responsive to receipt of a request by the medical service provider to access the set of medical records of the patient, use the second-level access key to grant said medical service provider the modified level of access" (emphasis added). *Soong* fails to teach a server system as recited by claim 22 that generates a second-level access key by modifying the level of access of the first-level access key, stores the second-level access key to a datastore that is communicatively coupled to the server system, and uses the generated second-level access key stored to the datastore for granting the modified level of access to the medical service provider. Instead, *Soong* requires that a medical service provider input a login ID that is used for controlling access to data records. No such key organization server system as that recited by claim 22 is taught by *Soong*.

Accordingly, the rejection of claim 22 should also be withdrawn.

Independent Claim 30

Claim 30 recites, in part, "retrieve the first-level access key; and generate a second-level access key by modifying the level of access of the first-level access key" (emphasis added). *Soong* fails to disclose at least this element of claim 30 for reasons similar to those discussed above with claim 1.

Further, as amended herein, claim 30 recites "receive ... a request from said patient to modify the level of access granted to the medical service provider by the first-level access key" and "generate a second-level access key by modifying the level of access of the first-level access key as specified in the received request from said patient" (emphasis added). *Soong* fails to teach such receipt of a request to modify the level of access from a patient.

Further, as amended herein, claim 30 recites "receive, via said communication network, a request from said medical service provider to access the set of medical records of the patient; and responsive to said received request, use said second-level access key for granting said medical service provider the modified level of access to the set of medical records of the patient, wherein input of the second-level access key by said medical service provider is not required" (emphasis added). *Soong* fails to teach a server that uses such a second-level access key for granting a modified level of access to medical records to a medical service provider where input of the second-level access key is not required of the medical service provider.

Accordingly, the rejection of claim 30 should also be withdrawn.

Dependent Claims 2-4, 6-10, 13-15, 23-28, 31, 33, and 34

Each of dependent claims 2-4, 6-10, 13-15, 23-28, 31, 33, and 34 depends either directly or indirectly from one of independent claims 1, 22, and 30, and thus each inherits all limitations of the respective independent claim from which it depends. It is respectfully submitted that dependent claims 2-4, 6-10, 13-15, 23-28, 31, 33, and 34 are allowable not only because of their dependency from their respective independent claim for the reasons discussed above, but also in view of their novel claim features (which both narrow the scope

of the particular claims and compels a broader interpretation of their respective independent claim).

VI. Rejections Under 35 U.S.C. §103 over *Soong* in view of *Resnitzky*

Claims 5, 11, 12, 16-21, 32, 35, and 36 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Soong* in view of *Resnitzky*. Applicant respectfully traverses these rejections below.

Independent Claim 16

Claim 16 recites, in part, "retrieving ... the first-level access key; <u>generating ... a second-level access key by modifying the level of access of the first-level access key</u>; and deleting the first-level access key from the datastore" (emphasis added). The combination of *Soong* and *Resnitzky* fails to teach or suggest at least the above-emphasized element of claim 16, as discussed below.

The Office Action relies on *Soong* as teaching the above-emphasized element. However, for the reasons discussed above with claim 1, *Soong* fails to teach or suggest this element of claim 16. *Resnitzky* is not relied-upon as disclosing this element, nor does it appear to do so.

Therefore, the combination of *Soong* and *Resnitzky* fails to teach or suggest all elements of claim 16, and thus fails to render claim 16 unpatentable under 35 U.S.C. §103 for at least this reason.

Further, claim 16, as amended herein, recites "associating, by the key organization system, said second-level access key with said second medical service provider; identifying, by said key organization system, the second medical service provider; and <u>responsive to said second medical service provider requesting access to the set of medical records of the patient, said key organization system using said second-level access key for granting said second medical service provider said second level of access to the set of medical records of the patient</u>" (emphasis added). The combination of *Soong* and *Resnitzky* further fails to teach or suggest such a key organization system that uses a second-level access key for granting a medical service provider access to patient medical records as recited by claim 16.

Accordingly, the rejection of claim 16 should be withdrawn.

Dependent Claims

Each of dependent claims 5, 11, 12, 17-21, 32, 35, and 36 depends either directly or indirectly from one of independent claims 1, 16, and 30, and thus each inherits all limitations of the respective independent claim from which it depends. It is respectfully submitted that dependent claims 5, 11, 12, 17-21, 32, 35, and 36 are allowable not only because of their dependency from their respective independent claim for the reasons discussed above, but also in view of their novel claim features (which both narrow the scope of the particular claims and compels a broader interpretation of their respective independent claim).

VII. New Claims

New claims 37-44 each depends either directly or indirectly from one of independent claims 1, 16, and 22, and thus each inherits all limitations of the respective independent claim from which it depends. It is respectfully submitted that newly-added claims 37-44 are allowable not only because of their dependency from their respective independent claim for the reasons discussed above, but also in view of their novel claim features (which both narrow the scope of the particular claims and compels a broader interpretation of their respective independent claim).

VIII. Conclusion

In view of the above, Applicant believes the pending application is in condition for allowance.

Applicant believes a fee of $312.00 is due with this response. However, if an additional fee is due, please charge our Deposit Account No. 50-3948, under Order No. 66729/P033US/10614705 from which the undersigned is authorized to draw.

Dated: May 11, 2009   Respectfully submitted,
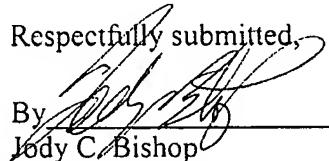
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